

---

---

**Rules of  
Office of Administration  
Division 30—Design and Construction  
Chapter 5—Minority/Women Business  
Enterprises**

<b>Title</b>	<b>Page</b>
<b>1 CSR 30-5.010</b> Minority/Women Business Enterprise Participation in State Construction Contracts .....	3

## Title 1—OFFICE OF ADMINISTRATION

### Division 30—Design and Construction Chapter 5—Minority/Women Business Enterprises

#### 1 CSR 30-5.010 Minority/Women Business Enterprise Participation in State Con- struction Contracts

*PURPOSE: This regulation establishes a uniform program by which Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) may participate in construction contracts let by the state of Missouri. This regulation provides that the commissioner of the Office of Administration determines otherwise, shall require that for contracts bid and awarded in an amount greater than or equal to one hundred thousand dollars (\$100,000), the successful bidder shall have as a goal subcontracting not less than ten percent (10%) of the awarded contract price for work to be performed in the St. Louis or Kansas City metropolitan areas to MBE/WBE(s), and shall have as a goal subcontracting not less than five percent (5%) of the awarded contract price for work to be performed in other than the St. Louis or Kansas City metropolitan areas to MBE/WBE(s).*

#### (1) Definitions.

(A) "Bidder" means one who submits a response to a solicitation by the Office of Administration for construction services.

(B) "Bid" means a bid proposal or bid submitted to the Division of Design and Construction by a bidder.

(C) "Compliance" means the condition existing when a bidder or contractor has met and implemented the requirements of these regulations.

(D) "Contract" means a mutually binding legal relationship or any modifications obligating the contractor to furnish construction supplies or services.

(E) "Contractor" means one who participates, through a contract or subcontract, in any program covered by these regulations.

(F) "Commissioner" means the commissioner of the Office of Administration.

(G) "Director" means the director of the Division of Design and Construction.

(H) "Joint Venture" means an association of two (2) or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

(I) "MBE" means Minority Business Enterprise.

(J) "Minority" means

1. "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

2. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race;

3. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

4. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas; or

5. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan or Bangladesh.

(K) "Minority Business Enterprise" means a business concern which is at least fifty-one percent (51%) owned by one (1) or more minority as defined in (1)(J) or in the case of any publicly-owned business at least fifty-one percent (51%) of the stock of which is owned by one (1) or more minority as defined in (1)(J) and whose management and daily business operations are controlled by one (1) or more minority as defined in the rule.

(L) "OA" means the Office of Administration.

(M) "Kansas City Metropolitan Area" means the City of Kansas City and the Missouri counties of Ray, Platte, Jackson, Cass and Clay.

(N) "St. Louis Metropolitan Area" means the City of St. Louis and the Missouri counties of Franklin, St. Charles, St. Louis and Jefferson.

(O) "WBE" means women business enterprise.

(P) "Women Business Enterprise" means a business concern which is at least fifty-one percent (51%) owned by one (1) or more women or in the case of any publicly-owned business at least fifty-one percent (51%) of the stock of which is owned by one (1) or more women and whose management and daily business operations are controlled by one (1) or more women.

(2) Contract Amount. This regulation applies to any state of Missouri construction contract awarded to a successful bidder in a bid amount equal to or greater than one hundred thousand dollars (\$100,000).

(3) Discrimination Prohibited. No person shall be excluded from participation in, or denied the benefits of, or otherwise be discriminated against in connection with the

award and performance of any contract covered by this regulation, on the grounds of race, color, sex or national origin.

(4) Commissioner, Duties and Responsibilities.

(A) The commissioner shall

1. Compile, maintain and make available a directory of MBE/WBEs along with their capabilities relevant to general contracting requirements and to particular solicitations. The commissioner shall make the directory available, upon request, to all bidders and contractors. The directory shall specify the name of the MBE/WBE, the type of business it conducts, its address, phone number and contact person;

2. To the extent deemed appropriate, include all MBE/WBEs on solicitation mailing lists;

3. Instruct the director to annually report in writing to the commissioner concerning the awarding of contracts to MBE/WBEs; and

4. Certify the eligibility of MBE/WBEs and joint ventures involving MBE/WBEs. The commissioner may accept certification made by other state and federal agencies.

(5) Percentage Goals and Compliance.

(A) For contracts bid and awarded in an amount greater than or equal to one hundred thousand dollars (\$100,000), the successful bidder shall have as a goal subcontracting not less than ten percent (10%) of the awarded contract price for work to be performed in the St. Louis or Kansas City metropolitan areas to MBE/WBE(s), and shall have as a goal subcontracting not less than five percent (5%) of the awarded contract price for work to be performed in other than the St. Louis or Kansas City metropolitan areas to MBE/WBE(s).

(B) If after the contract has been awarded to the contractor, the contractor fails to meet or maintain the percentage goal, s/he must satisfactorily explain to the director why the goal cannot be achieved and why meeting the goal was beyond the contractor's control.

(C) If the director finds the contractor's explanation unsatisfactory, the director shall notify the commissioner. The commissioner may take any appropriate action, including, but not limited to:

1. Declaring the contractor ineligible to participate in any state contracts administered through the Office of Administration for a period not to exceed six (6) months; and

2. Declaring the contractor in breach of the contract.

(6) Waiver.

(A) A bidder is required to make a good faith effort to locate and contract with MBE/WBEs. If a bidder has made a good faith effort to secure the required MBE/WBEs and has failed, s/he may submit with his/her bid proposal the information requested in Appendix A, Application for Waiver. The commissioner will review the bidder's actions as set forth in the bidder's Application for Waiver, and any other factors deemed relevant by the commissioner, to determine if a good faith effort has been made to meet the applicable percentage goal. If the bidder is judged not to have made a good faith effort, the bid shall be rejected.

(B) Bidders who demonstrate that they have made a good faith effort to include MBE/WBE participation will be awarded the contract regardless of the percent of MBE/WBE participation, provided the bid is otherwise acceptable.

(C) In reaching his/her determination of good faith, the commissioner may evaluate, but is not limited to, the following factors:

1. Attendance at pre-bid meetings scheduled by the director to inform bidders and MBE/WBEs of contracting and subcontracting opportunities and responsibilities associated with MBE/WBE participation;

2. Attempts by the bidder to advertise in general circulation trade association and minority focus media concerning subcontracting opportunities;

3. Attempts to provide written notice to specific MBE/WBEs that their services were being solicited, in sufficient time to allow for their effective participation;

4. Follow-up attempts by the bidder to the initial solicitation(s) to determine with certainty whether MBE/WBEs were interested;

5. The extent to which the bidder divided work into projects suitable for subcontracting to MBE/WBEs;

6. Whether the bidder provided interested MBE/WBEs with sufficiently detailed information about the plans, specific actions and requirements about the contract;

7. Efforts by the bidder to negotiate in good faith with MBE/WBEs for specific sub-bids. Documentation should include names, addresses and telephone numbers of firms contacted, a description of all information provided the MBE/WBEs and an explanation as to why agreements were not reached;

8. Reasons for rejecting MBE/WBE's proposal;

9. The bidder's efforts to locate MBE/WBEs not on the directory list and assist MBE/WBEs in becoming certified as such;

10. The bidder's initiatives to encourage and develop MBE/WBEs;

11. The efforts of the bidder to help the MBE/WBE overcome any legal or other barriers impeding the participation of MBE/WBEs in the construction contract; and

12. The availability of MBE/WBEs and the adequacy of the bidder's efforts to increase the participation of such businesses provided by the persons and organizations consulted by the bidder.

(7) Bidder's Duties and Responsibilities.

(A) The bidder shall submit with his/her bid proposal the information requested in Appendix B for every MBE/WBE the bidder intends to use on the contract work.

(B) If the MBE/WBE is a joint venture, and one (1) or more coventurers is not certified as a MBE/WBE, the bidder shall submit with his/her bid proposal the information requested in Appendix C.

(C) If the MBE/WBE that the bidder proposes to use on the project is not certified, the bidder shall submit with his/her bid proposal the information requested in Appendix D.

(D) If a MBE/WBE is replaced during the course of the contract, the contractor shall make a good faith effort to replace it with another MBE/WBE. All substitutions shall be approved by the director.

(E) Successful bidders shall provide the director regular reports on the bidder's progress in meeting its MBE/WBE obligations.

(8) Counting MBE/WBE Participation Toward Meeting MBE/WBE Goals.

(A) The total dollar value of the work granted to the MBE/WBE by the successful bidder is counted towards the applicable goal of the entire contract.

(B) A bidder may count towards his/her MBE/WBE goals that portion of the total dollar value granted to a certified joint venture equal to the percentage of the ownership and control of the MBE/WBE partner in the joint venture.

(C) A bidder may count toward his/her MBE/WBE goal only expenditures to MBE/WBEs that perform a commercially useful function in the work of a contract.

1. A MBE/WBE is considered to perform a commercially useful function when it is responsible for executing a distinct element of the work contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a MBE/WBE is performing a commercially useful function, the director shall evaluate the amount of work sub-

contracted by the MBE/WBE, industry practices and any other relevant factors.

2. A MBE/WBE may subcontract a portion of the work. If a MBE/WBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practices, the MBE/WBE shall be presumed not to be performing a commercially useful function. The MBE/WBE may present evidence to rebut this presumption to the bidder. The bidder's decision on the rebuttal of this presumption is subject to review by the director.

(D) A bidder may count toward its MBE/WBE goals expenditures for materials and supplies obtained from MBE/WBE suppliers and manufacturers, provided that the MBE/WBE assumes the actual and contractual responsibility for the provision of the materials and supplies.

1. The bidder may count its entire expenditure to a MBE/WBE manufacturer. For the purposes of this regulation, a manufacturer shall be defined as an individual or firm that produces goods from raw materials or substantially alters them before resale.

2. The bidder may count twenty percent (20%) of its expenditures to MBE/WBE suppliers that are not manufacturers provided that the MBE/WBE supplier performs a commercially useful function, as defined in paragraph (8)(C)1. of this rule, in the supply process.

(9) Maintenance of Records and Reports. The director shall maintain records identifying and assessing the contractor's progress in achieving and maintaining MBE/WBE percentage goals. These records shall show—

(A) Procedures which have been adopted by the contractor to comply with the requirements of these regulations;

(B) The amount and nature of awards made by the contractor to MBE/WBEs; and

(C) Regular reports from the contractor on its progress in meeting MBE/WBE goals.

(10) Certification of MBE/WBEs.

(A) Bidders shall submit with their bid proposals the information requested in Appendix D, and as appropriate Appendix C, to certify firms or individuals wishing to participate as MBE/WBEs under these regulations.

(B) Except as provided in subsection (10)(C) that follows, each firm or individual seeking certification to participate as a MBE/WBE in a state contract shall complete and submit to the commissioner the information requested in Appendix D. Minority or women partners in a joint venture shall submit to the commissioner the information

requested in both Appendices C and D. The information must be provided by an authorized representative of the firm or individual.

(C) A firm or individual seeking to participate as a MBE/WBE under these regulations need not submit the information described in (10)(A) and (B) if the potential MBE/WBE states in writing that it has submitted the same information to or has been certified by the commissioner within the last five (5) years and has filed with the commissioner an annual update to the information requested in Appendix D; or the potential MBE/WBE has been certified as an MBE/WBE by another Missouri state agency within the last five (5) years.

(D) Individuals and firms certified under this regulation shall be placed on the MBE/WBE directory list.

(E) Once a MBE/WBE is certified, the certification shall be effective for a period not to exceed five (5) years.

#### (11) Eligibility Standards.

(A) The following standards shall be used by the commissioner in determining whether a firm is owned and controlled by one (1) or more minority/women and is therefore eligible to be certified as a MBE/WBE. Businesses aggrieved by the commissioner's determination may appeal in accordance with procedures set forth in section (12).

1. Bona-fide membership in a minority group shall be established on the basis of the individual's claim that s/he is a member of such a minority group and is so regarded by the particular minority community. However, the commissioner is not required to accept this claim if s/he determines the claim to be invalid.

2. An eligible MBE/WBE under these regulations shall be an independent business. The ownership and control by the minority/women shall be real, substantial and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The minority/women shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with ownership interests, as demonstrated by examination of the substance rather than form of the arrangement. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as a MBE/WBE. In determining whether a potential MBE/WBE is an independent business, the commissioner shall consider all relevant factors, including the date the business was established, the adequacy of its resources for the work of the construction contract, and the degree to which financial, equipment leasing

and other relationships with nonminority firms vary from industry practices.

3. The MBE/WBE owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy and operation. The firm shall not be subject to any formal or informal restrictions which limit the customary discretions of the minority/women owner(s). There shall be no restriction through, for example, bylaw provisions, partnership agreements or charter requirements for cumulative voting rights or otherwise that prevent the minority/women owner(s) from making a business decision of the firm without the cooperation or vote of any owner who is not a minority/woman.

4. If the owners of the firm who are not minorities/women are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities/women and shall not be considered a MBE/WBE within the meaning of these regulations. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purposes of these regulations, be considered as controlling the business.

5. All securities which constitute ownership and/or control of a corporation for purposes of establishing it as a MBE/WBE under these regulations shall be held directly by minority/women. No securities held in trust, or by any guardian for a minor, shall be considered as held by minority/women in determining the ownership or control of a corporation.

6. The contributions of capital or expertise by the minority/women to acquire their interests in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority/women, or the mere participation as an employee rather than as a manager.

7. In addition to the standards set out in this section, the commissioner shall give special consideration to the following circumstances in determining eligibility:

A. Newly formed firms and firms whose ownership and/or control has changed since the date of advertisement of the construction contract shall be closely scrutinized to determine the reasons for the timing of the formation of or change in the firm;

B. A previous and/or continuing employer-employee relationship between or among present owners shall be carefully

reviewed to ensure that the employee-owner has management responsibilities and capabilities discussed in this section; and

C. Any relationship between a MBE/WBE and a business which is not a MBE/WBE which has an interest in the MBE/WBE shall be carefully reviewed to determine if the interest of the non-MBE/WBE conflicts with the ownership and control requirements of this section.

(B) A joint venture is eligible under these regulations if the minority/woman partner of the joint venture meets the standards for eligible minorities/women set forth previously and the minority/woman partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture.

(C) A business wishing to be certified as a MBE/WBE or a joint venture MBE/WBE by the commissioner shall cooperate with the commissioner in supplying any additional information which may be requested in order to make a determination.

(D) Once certified, a MBE/WBE shall update its submission annually by submitting to the commissioner the information requested in Appendix D or by certifying that the information requested in Appendix D on file with the commissioner is still accurate. Anytime there is a change in ownership or control of the firm, the MBE/WBE shall update the previously filed information requested in Appendix D.

(E) Failure of a certified MBE/WBE to update or submit this information shall disqualify the firm or individual from further participation as a MBE/WBE until such time that the information is filed by the firm or individual and approved by the commissioner.

(F) Except as provided in section (12), the denial of the certification by the commissioner shall be final for that contract and other contracts being let by the commissioner at the time of the denial of certification. MBE/WBE and joint ventures denied certification may correct deficiencies in their ownership and control and apply for certification only for future contracts.

(G) The commissioner shall safeguard from disclosure to unauthorized persons information that reasonably may be regarded as confidential information, consistent with federal, state and local law.

#### (12) Appeals and Denials of Certification as MBE/WBE.

(A) Any firm or individual who believes that it has been wrongly denied certification

as a MBE/WBE or joint venture by the commissioner may file an appeal in writing, signed and dated, with the commissioner. The appeal shall be filed no later than ten (10) days after the date of denial of certification. The commissioner may extend the time for filing or waive the time limit as necessary, specifying in writing the reasons for so doing. Third parties who have reason to believe that another firm has been wrongly denied or granted certification as a MBE/WBE or joint venture may advise the commissioner. Challenges by third parties are not considered an appeal pursuant to this section.

(B) The commission may deny the MBE/WBE or joint venture eligibility to participate as a MBE/WBE in state construction contracts let during the pendency of the appeal.

(C) All parties shall cooperate fully with the commissioner during the appeal. Any party failing or refusing to furnish requested information or to cooperate in any other way may be declared by the commissioner to be ineligible to participate in any state contracts administered through the Office of Administration for a period not to exceed six (6) months.

(D) The commissioner shall make one (1) of the following determinations and inform the MBE/WBE or joint venture in writing of the reasons for the determination:

1. The MBE/WBE or joint venture is certified; or
2. The MBE/WBE or joint venture is not eligible to be certified and is denied eligibility to participate as a MBE/WBE in any state construction contract until a new application for certification is approved by the commissioner.

(13) Willful Provision of Incorrect Information. If at any time the commissioner has reason to believe that a person or firm has willfully and knowingly provided incorrect information or made false statements in regard to the requirements of these regulations, the commissioner may take any action deemed appropriate, including: but not limited to:

(A) Not allow the person or firm to participate in any state construction contracts for a period of six (6) months from the determination that incorrect information has been willfully and knowingly provided; and

(B) Take any legal or equitable actions pursuant to a breach of contract.

(14) Nothing in this regulation shall limit or affect the commissioner's functions and rights to determine the qualification, responsibilities and reliability of any individual,

firm or other entity to participate in state contracts.

*AUTHORITY: section 8.320, RSMo 1986.\* Original rule filed March 9, 1984, effective Aug. 11, 1984. Emergency amendment filed Dec. 10, 1985, effective Dec. 20, 1985, expired April 19, 1986. Amended: Filed Dec. 10, 1985, effective April 11, 1986.*

*\*Original authority 1958, amended 1965.*

**APPENDIX A  
Application for Waiver**

This form is to be completed by those bidders who have submitted a contract price which is acceptable to the Missouri State Division of Design and Construction. Firms wishing to remain in competition for this award are required to demonstrate that a good faith effort has been made to include minority/women-owned enterprises as subcontractors. This form will be used to evaluate the extent to which a good faith effort has been made.

The undersigned submits the following data with respect to the firm's efforts to meet the Missouri Office of Administration's goal for MBE/WBE participation.

- 1. List pre-bid conferences your firm attended where MBE/WBE requirements were discussed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 2. Identify advertising efforts undertaken by your firm which were intended to recruit potential minority/women subcontractors for various aspects of this project. Provide names of newspapers, dates of advertisements and copies of ads that were run.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3. Note specific efforts to contact in writing those MBE/WBEs capable of and likely to participate as subcontractors for this project.
- 4. Describe steps taken by your firm to divide work into areas in which MBE/WBE would be capable of performing.
- 5. What efforts were taken to negotiate with prospective MBE/WBEs for specific sub-bids? Include the names, addresses and telephone numbers of MBE/WBEs contacted, a description of the information given to MBE/WBEs regarding the plans and specifications for the assigned work, and a statement as to why additional agreements were not made with MBE/WBEs.
- 6. List reasons for rejecting a MBE/WBE which has been contacted.
- 7. Describe efforts your firm may have taken to assist a MBE/WBE in overcoming legal or other requirements which may have to be met.
- 8. Describe follow-up contacts with MBE/WBEs made by your firm after the initial solicitation.
- 9. Describe the efforts made by your firm to provide interested MBE/WBEs with sufficiently detailed information about the plans, specifications and requirements of the contract.
- 10. Describe your firm's efforts to locate MBE/WBEs not on the directory list and assist MBE/WBEs in becoming certified as such.

Based on the above stated good faith efforts made to locate and supply MBE/WBEs, the bidder hereby requests that the MBE/WBE percentage goal set by this regulation be waived and that the percentage goal for this project be set at \_\_\_\_\_ percent. The undersigned hereby certifies that having read the answers contained in the foregoing Application for Waiver, that they are true and correct to the best of his/her knowledge, information and belief.

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Company \_\_\_\_\_  
Date \_\_\_\_\_



**APPENDIX B  
Compliance Evaluation Form**

This form is to be completed by those bidders who have submitted a contract price which is acceptable to the Missouri State Division of Design and Construction. A condition for remaining in competition for this award is the satisfactory completion of this form for each minority/women-owned firm who will function as a subcontractor on the contract.

The undersigned submits the following data with respect to this firm's assurance to meet the Office of Administration's goal for MBE/WBE participation.

I. Name of General Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_  
Executive officer: \_\_\_\_\_ Title: \_\_\_\_\_

II. Name of MBE/WBE Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Type of Business: \_\_\_\_\_  
Contact: \_\_\_\_\_ Title: \_\_\_\_\_

III. Describe the subcontract work to be performed, the number of employees the MBE/WBE will have on the job and the estimated time for completion of work.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV. Was the proposed subcontractor listed in the Minority/Women Business Enterprise Directory maintained by the Division of Design and Construction?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is no, please attach the information requested in Appendix D to this form.

Date: \_\_\_\_\_  
Company: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPENDIX C**  
**Information for Determining Joint Venture Eligibility**

This form need not be filled in if all joint venture firms are minority/women owned.

1. Name of joint venture \_\_\_\_\_
2. Address of joint venture \_\_\_\_\_
3. Phone number of joint venture \_\_\_\_\_
4. Identify the firms which comprise the joint venture. (The MBE partner must complete Appendix D.) \_\_\_\_\_
  - (a) Describe the role of the MBE firm in the joint venture. \_\_\_\_\_
  - (b) Describe very briefly the experience and business qualifications of each non-MBE coventurer. \_\_\_\_\_
5. Nature of the joint venture's business \_\_\_\_\_
6. Provide a copy of the joint venture agreement.
7. What is the claimed percentage of MBE ownership? \_\_\_\_\_
8. Ownership of joint venture. (This need not be filled in if described in the joint venture agreement, provided by question 6.)
  - (a) Profit and loss sharing.
  - (b) Capital contributions, including equipment.
  - (c) Other applicable ownership interests.
9. Control of and participation in this contract. Identify by name, race, sex and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision-making, including, but not limited to, those with prime responsibility for:
  - (a) Financial decisions \_\_\_\_\_
  - (b) Management decisions, such as—
    1. Estimating \_\_\_\_\_
    2. Marketing and sales \_\_\_\_\_
    3. Hiring and firing of management personnel \_\_\_\_\_
    4. Purchasing of major items or supplies \_\_\_\_\_

*Note—If after filing this information and before the completion of the joint venture's work on the contract covered by this regulation there is any significant change in the information submitted, the joint venture must inform the commissioner, either directly or through the prime contractor.*



**Affidavit**

“The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide the commissioner current, complete and accurate information regarding actual joint venture work and the payment therefor and any proposed changes in any of the joint venture arrangements and to permit the audit and examination of the books, records, and files of the joint venture, or those of each joint venturer relevant to the joint venture, by authorized representatives of the commissioner. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.”

Name of Firm	Name of Firm
Signature	Signature
Name	Name
Title	Title
Date	Date

Date \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me appeared (name) \_\_\_\_\_

\_\_\_\_\_, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and

did state that he or she was properly authorized by (name of firm) \_\_\_\_\_ to execute

the affidavit and did so as his or her free act and deed.

Notary Public \_\_\_\_\_

Commission expires \_\_\_\_\_

(seal)

Date \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me appeared (name) \_\_\_\_\_

\_\_\_\_\_, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and

did state that he or she was properly authorized by (name of firm) \_\_\_\_\_ to execute

the affidavit and did so as his or her free act and deed.

Notary Public \_\_\_\_\_

Commission expires \_\_\_\_\_

(seal)



**APPENDIX D  
Information for Determining Minority/Women Business Enterprise Eligibility**

1. Name of firm \_\_\_\_\_
2. Address of firm \_\_\_\_\_
3. Phone Number of firm \_\_\_\_\_
4. Indicate whether firm is sole proprietorship, partnership, joint venture, corporation or other business entity (please specify) \_\_\_\_\_
5. Nature of firm's business \_\_\_\_\_
6. Number of years firm has been in business \_\_\_\_\_
7. Ownership of firm: Identify those who own 5 percent or more of the firm's ownership. Columns e and f need be filled out only if the firm is less than 100 percent minority owned.

a Name	b Race	c Sex	d Years of Ownership	e Ownership Percentage	f Voting Percentage
-----------	-----------	----------	----------------------------	------------------------------	---------------------------

With firms less than 100 percent minority/women owned, list the contributions of money, equipment, real estate, or expertise of each of the owners.

8. Control of firm: (a) Identify by name, race, sex, and title in the firm those individuals (including owners and non-owners) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:
  - (1) Financial decisions \_\_\_\_\_
  - (2) Management decisions, such as—
    - a. Estimating \_\_\_\_\_
    - b. Marketing and sales \_\_\_\_\_
    - c. Hiring and firing of management personnel \_\_\_\_\_
    - d. Purchases of field operations \_\_\_\_\_
  - (3) Supervision of field operations \_\_\_\_\_
9. For each of those listed in question 8, provide a **brief** summary of the person's experience and number of years with the firm, indicating the person's qualifications for the responsibilities given him or her.
10. Describe or attach a copy of any stock options or other ownership options that are outstanding, and any agreements between owners or between owners and third parties which restrict ownership or control of minority owners.
11. Identify any owner (see Item 7) or management official (see Item 8) of the named firm who is or has been an employee of another firm that has an ownership interest in or a present business relationship with the named firm. Present business relationships include shared space, equipment, financing, or employees as well as both firms having some of the same owners.
12. What are the gross receipts of the firm for each of the last two years?
 

Year ending \_\_\_\_\_  
\$ \_\_\_\_\_

Year ending \_\_\_\_\_  
\$ \_\_\_\_\_



- 13. Name of bonding company, if any: \_\_\_\_\_  
 Bonding limits: \_\_\_\_\_  
 Source of letters of credit, if any \_\_\_\_\_
- 14. Are you authorized to do business in the state as well as locally, including all necessary business licenses?
- 15. Indicate if this firm or other firms with any of the same officers have previously received or been denied certification or participation as an MBE and describe the circumstances. Indicate the name of the certifying authority and the date of such certification or denial.

**Affidavit**

“The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operation of \_\_\_\_\_ (name of firm) as well as the ownership thereof. Further, the undersigned agrees to provide through the prime contractor or directly to the commissioner current, complete and accurate information regarding actual work performed on the project, the payment therefor and any proposed changes, if any, of the foregoing arrangements and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.”

*Note—If, after filing this information and before the work of this firm is completed on the contract covered by this regulation, there is any significant change in the information submitted, you must inform the commissioner of the change either through the prime contractor or directly.*

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_  
 Corporate Seal (where appropriate)

Date \_\_\_\_\_  
 State of \_\_\_\_\_  
 County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me appeared (name) \_\_\_\_\_, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) \_\_\_\_\_ to execute the affidavit and did so as his or her own free act and deed.

(Seal)

Notary Public \_\_\_\_\_  
 Commission expires \_\_\_\_\_